

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

Criminal No. WDQ-14-183

RODNEY SMITH,

Defendant.

...oOo...

GOVERNMENT'S MOTION FOR EVALUATION

Comes now the United States of America, by and through its counsel, Rod J. Rosenstein, United States Attorney for the District of Maryland, and Scott A. Lemmon, Assistant United States Attorney for said district, and respectfully moves, pursuant to 18 U.S.C. §§ 4241(b) and 4247, for an order permitting an evaluation of the defendant, Rodney Smith by Neil Blumberg, M.D., and in support, submits the following:

1. On April 15, 2014 a one-count criminal indictment was issued charging Derek Roberts with possessing a firearm as a felon in violation of 18 U.S.C. § 922(g)(1). On July 29, 2014, a seven-count superseding criminal indictment was issued charging the defendant, Rodney Smith, with conspiring to commit two Hobbs Act robberies in violation of 18 U.S.C. § 1951(a) (Count One); committing two Hobbs Act robberies in violation of 18 U.S.C. § 1951(a) (Counts Two and Four); and possessing and brandishing a firearm in violation of 18 U.S.C. § 924(c) (Count Three).

2. On August 22, 2014, the defendant had an initial appearance and arraignment on the indictment. On September 9, 2014, the Court signed an order excluding the period from August 22, 2014 to December 19, 2014 from computation under the Speedy Trial Act. *See* ECF 41. The motions hearing and trial have been scheduled to begin on February 23, 2015.

3. On September 3, 2014, defense counsel provided the government notice pursuant to Rule 12.2(a) of the Federal Rules of Criminal Procedure that Smith intends to argue that at the time of at least one of the robberies at issue in this case, Smith was “so heavily under the influence of marijuana, cocaine, and [PCP]” that he was unable “to conform his behavior to the requirements of the law” and therefore was not criminally responsible. ECF 39 at 2. *See ECF 39 (“Entry of Formal Plea of Not Criminally Responsible/Insanity and Request for Evaluation Under Federal Rule 12.2(a)(b).”).*¹

4. On September 17, 2014, the parties and the Court participated in a conference call. The Defendant requested the appointment of an expert to evaluate the Defendant, and the Court asked the Defendant to file evidence of indigence and asked the Government to file a request for appointment of a psychiatrist to evaluate the Defendant. On September 23, 2014, the Defendant filed a motion stating that he is indigent. *See ECF 45.*

5. Based on the foregoing, the Government moves for the appointment of Neil Blumberg, M.D. to conduct a forensic examination of Defendant Rodney Smith regarding his claims of voluntary intoxication at the time of the offenses.

6. The Government agrees to bear the cost of evaluation, in accordance with Chapter 7, Section 320.20.60 of the Guide to Judiciary Policy.

¹ The Government believes that the Defendant’s motion would be more accurately styled as a notice that the Defendant will argue that he was voluntarily intoxicated at the times in question and therefore could not form any requisite specific intent.

7. The Defendant consents to this motion and to the recommendation of Neil Blumberg, M.D., as the psychiatrist to be appointed.

WHEREFORE, the Government requests that the Court order that Neil Blumberg, M.D. be appointed to conduct an evaluation of the Defendant. A proposed order is submitted herewith.

Respectfully submitted,

Rod J. Rosenstein
United States Attorney

By: _____/s/_____
Scott A. Lemmon
Assistant United States Attorney
36 S. Charles Street, Fourth Floor
Baltimore, Maryland 21201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 30, 2014, I electronically filed the foregoing with the Clerk of Court via CM/ECF and thereby served counsel for the Defendant.

Respectfully submitted,

Rod J. Rosenstein
United States Attorney

By: _____/s/
Scott A. Lemmon
Assistant United States Attorney